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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,917	03/10/2004	Stephen C. Wolf	RAP04 P-645B	3271
28101	7590	01/03/2006	EXAMINER	
VAN DYKE, GARDNER, LINN AND BURKHART, LLP			SHARMA, RASHMI K	
2851 CHARLEVOIX DRIVE, S.E.			ART UNIT	
P.O. BOX 888695			PAPER NUMBER	
GRAND RAPIDS, MI 49588-8695			3651	

DATE MAILED: 01/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/796,917	Applicant(s) WOLF, STEPHEN C.	
	Examiner Rashmi K. Sharma	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 35-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14, 21-34 and 40-44 is/are rejected.
- 7) ☒ Claim(s) 13, 15-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/20/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-12, 14, 21-34 and 40-44 are rejected under 35 U.S.C. 102(a) as being anticipated by Peppel (U.S. Patent number 6,607,065).

Peppel discloses a paddle diverter assembly and method thereof, comprising a pair of arms (19), an actuator (18, 28) for moving the arm (19) from a home position to a diverting position and permitting the arm to move away from the diverting position upon impact with an object to be diverted to thereby absorb at least some of the impact between the arm and the object being diverted, the actuator (18, 28) adapted to permit the arms (19) to return to the diverting position after moving away from the diverting position upon impact with the object to be diverted, wherein the arms (19) comprises a driven diverting surface or a belt drive (26), wherein the actuator (18, 28) extends downwardly from the arms (19) no more than twelve inches (read column 12 lines 22-24), the actuator comprising a motor (30) and a servo-controller (115) to selectively power the motor permitting the arm to move away from the diverting position upon impact with the object and forming an electric spring, wherein the arm includes a spring (48, 50) to deflect and absorb impact when the arm (19) impacts the object being

Art Unit: 3651

diverted by the arm (19), wherein the spring (48, 50) comprises a plate spring (56, 58), wherein the arm includes a medial portion and the spring being provided in the medial portion (the spring extending towards the medial portion below the arm), wherein the plate spring (56, 58) includes a longitudinal extent and the arm including a longitudinal axis whereby the longitudinal extent extending along the longitudinal axis (see Figures 2, 4-7), wherein the arm (19) supports belt pulley/rollers (38, 40) for supporting the drive belt (26).

Peppel also discloses a diverter system comprising a conveying surface (C1, C2) having a conveying direction and for conveying an article at a conveying speed, a pair of diverter assemblies (16) at opposite sides of the conveying surface, each diverter assemblies (16) comprising an arm (19) mounted for pivotal movement between non-diverting position and a diverting position wherein the arm is pivoted across at least a portion of the conveying surface (see Figure 1 and 3), a drive system (18, 28, 30, 115) for independently and selectively moving the arms between the diverting positions and the non-diverting positions wherein the arms (19) may be sequentially or each arm may be individually moved to their respective diverting positions and wherein an article conveyed on the conveying surface is diverted in a diverting direction when the article contacts one of the arms when the one arm is in the diverting position (read column 5 lines 65-67 and column 6 lines 1-26 and 46-64), the drive system permitting the arms (19) to move away from their diverting positions when impacting an article to thereby reduce the impact on the article being diverted and moves the one arm back to the non-diverting position after the article is diverted by the one arm, wherein the drive system

Art Unit: 3651

comprises a driver for each arm (read Abstract), the drivers being independently actuated to move the arms to their respective diverting positions, wherein the arms (19) comprise a horizontal extent and at least one driven diverting surface comprising a belt (26) extending around the horizontal extent, the belt (26) being driven around their respective horizontal extents and providing driven diverting surfaces for each of the arms, wherein each of the driven rollers (38, 40) includes a driven axis about which the driven roller is driven and whereby the arms (19) pivoting about the respective pivot axis when pivoting between the non-diverting position and the diverting position, whereby the driven axis of each arm and the pivot axis of each arm are generally collinear, the drive system is adapted to de-couple movement of the drive belts (26) about the driven axis from movement of the arm about the pivot axis, the drive system including a motor (30) for pivoting the arm and a motor for driving the belts (read column 5 lines 15-30), the motors being independently actuated by the drive system.

Allowable Subject Matter

Claims 13, 15-20 and 45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Dependent claims 13 and 15 recites the structural limitations of the spring plate including a longitudinal groove extending along the longitudinal extent, the drive belt having a rib, the rib extending into the groove wherein the groove provides vertical

Art Unit: 3651

support to the drive belt and wherein the arm comprises at least first and second arm portions whereby the first and second arm portions are releasably interlocked, when released, the first and second arm portions permit removal of the drive belt (26) without disassembly of the paddle diverter assembly, in combination with the rest of the recited structure, clearly defines over the prior art.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashmi K. Sharma whose telephone number is 571-272-6918. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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**PATRICK MACKAY
PRIMARY EXAMINER**